

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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DONALD SLATER,

Petitioner,

-v.-

Civil Action No.  
9:01-cv-928 (GLS/DEP)

VICTOR HERBERT,

Respondent.

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APPEARANCES:

OF COUNSEL:

**FOR THE PETITIONER:**

DONALD SLATER  
98-B-1971  
Petitioner Pro Se  
Attica Correctional Facility  
Box 149  
Attica, New York 14011-0149

**FOR THE RESPONDENT:**

HON. ANDREW M. CUOMO  
Attorney General for the State of New York  
Counsel for Respondent  
120 Broadway  
New York, New York 10271

PRISCILLA I. STEWARD  
Assistant Attorney General

GARY L. SHARPE,  
U.S. DISTRICT JUDGE

**ORDER**

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge David E. Peebles, duly filed June 24, 2008. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby ORDERED, that the Report-Recommendation of Magistrate Judge David E. Peebles filed June 24, 2008 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that the Court finds that the petitioner did not mail a notice of appeal to this court on or about May 10, 2006, as claimed, appealing from the judgment entered in this matter on April 18, 2006, and it is further

ORDERED, that the Clerk of the court serve a copy of this order upon the parties in accordance with this court's local rules.

IT IS SO ORDERED.

Dated: July 25, 2008  
Albany, New York

Gary L. Sharpe  
Gary L. Sharpe  
U.S. District Judge